



DEPARTMENT OF COMMERCE

BUREAU OF INDUSTRY AND SECURITY

In the Matter of:

Billy L. Powell, Sr.  
1911 Hickory Creek  
Kingwood, TX 77339

Respondent

ORDER RELATING TO  
BILLY L. POWELL, SR.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has notified Billy L. Powell, Sr. of Kingwood, TX ("Powell"), of its intention to initiate an administrative proceeding against Powell pursuant to Section 766.3 of the Export Administration Regulations (the "Regulations"), \1\ and Section 13(c) of the Export Administration Act of 1979, as amended (the "Act"), \2\ through the issuance of a Proposed Charging Letter to Powell that alleges that Powell committed fifty violations of the Regulations. Specifically, the charges are:

\1\ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violations occurred in 2006-2008. The Regulations governing the violations at issue are found in the 2006-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774) (2006-2008)). The 2013 Regulations set forth the procedures that apply to this matter.

\2\ 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq.) (2006 & Supp. IV 2010).

Charges 1-50      15 C.F.R. § 764.2(e) -- Acting with Knowledge of a Violation

On fifty occasions, between on or about January 14, 2006, and on or about February 23, 2008, Powell violated the Regulations by selling or transferring

various oil and gas equipment parts, items subject to the Regulations\3\ and the Iranian Transactions Regulations,\4\ that were exported or to be exported from the United States to Iran via transshipment through the United Arab Emirates, with knowledge that a violation of the Regulations was occurring, was about to occur, or was intended to occur in connection with the items. Specifically, Powell sold or transferred the items with knowledge that licenses were required for such exports and that no licenses had been obtained. Pursuant to Section 560.204 of the Iranian Transactions Regulations administered by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization.\5\ Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the exports described herein.

\3\ These items were designated as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2006-2008).

\4\ 31 C.F.R. Part 560 (2006-2008). Administered by the Treasury Department's Office of Foreign Assets Control ("OFAC"), the ITR were renamed the Iranian Transactions and Sanctions Regulations ("ITSR") and reissued in their entirety by OFAC on October 22, 2012. See 77 Fed. Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. See 31 C.F.R. § 560.204 (2006-2008 and 2012).

\5\ See also 15 CFR § 734.2(b)(6).

Powell knew or had reason to know that he was violating the Regulations by engaging in these transactions, because prior to engaging in these transactions, Powell had knowledge of the U.S. Government's embargo on exports to Iran based on, inter alia, multiple outreach visits and contacts by U.S. law enforcement agents between 2000 and 2007, regarding the licensing requirements for exports to embargoed destinations, including Iran. In engaging in this activity, Powell committed fifty violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Powell have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Powell shall be assessed a civil penalty in the amount of \$100,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Powell will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that for a period of five (5) years from the date of this Order, Billy L. Powell, Sr., with a last known address of 1911 Hickory Creek, Kingwood, TX 77339, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FOURTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from, or to facilitate the acquisition or attempted acquisition from, the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FIFTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

SIXTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SEVENTH, that this Order shall be served on Powell, and shall be published in the Federal Register.

This Order, which constitutes the final agency action in this matter, is effective immediately.

David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 19th day of June, 2013.

[FR Doc. 2013-15253 Filed 06/27/2013 at 8:45 am; Publication Date: 06/28/2013]